

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

**ACSW'S RESPONSE TO RCA'S
PETITION FOR RECONSIDERATION**

ACS Wireless, Inc. ("ACSW") supports the Joint Petition for Reconsideration ("Petition") filed by the Rural Cellular Association and several rural wireless competitive eligible telecommunications carriers ("CETCs")¹ (collectively, "Joint Petitioners") on August 1, 2008.² The Joint Petitioners request that the Commission reconsider its May 1, 2008, order imposing an interim cap on high-cost support paid to CETCs from the Universal Service Fund ("USF" or "Fund").³ ACSW supports rescission of the *Interim Cap Order* due to potentially harmful ambiguities in the limited exception for CETCs that serve tribal lands or Alaska Native Regions.⁴ If those ambiguities are wrongly interpreted, the *Interim Cap Order* will cause direct harm to underserved areas that the Commission sought to help by creating the exception.

¹ Joint Petitioners include the RCA, Cellular South Licenses, Inc., N.E. Colorado Cellular, Inc., the Cellcom Companies, Smith Bagley, Inc., Carolina West Wireless, Inc., Bluegrass Cellular, Inc., MTPCS, LLC, and Leaco Rural Telephone Cooperative.

² *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Joint Petition for Reconsideration (August 1, 2008).

³ *In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, FCC 08-122 (rel. May 1, 2008) ("*Interim Cap Order*").

⁴ *Interim Cap Order*, ¶¶ 32-33.

The matter is urgent because the interim cap is now in effect. The uncertainty over future funding levels is already impacting build-out plans and service to customers. CETCs have to make plans based on the cap without relying on the ambiguous exception. The Commission should either resolve the ambiguity or rescind the *Interim Cap Order*.

The *Interim Cap Order* adopted an exception to the CETC cap that was intended to benefit CETCs serving tribal lands and Alaska Native Regions. The exception allowed CETCs serving those areas to elect to continue to receive uncapped high-cost support for lines served in those regions.⁵ The Commission limited uncapped per line supports to “one payment per each residential account.”⁶

Problematically, the exception is worded ambiguously and has been subject to different interpretations. ACSW agrees with other parties that the only purpose of adopting the exception would be to permit CETCs serving Alaska Native Region/tribal lands to receive more support than they would under a cap, not less.⁷ Interpreting the *Interim Cap Order* to limit uncapped support to one line per residential household, as others have argued,⁸ would violate this intent, violate Congressional directives that the FCC is not permitted to restrict universal service support to a primary line, and cause harmful consequences that are not in the public interest.

That interpretation would have a particularly harmful effect on Alaskan Native Regions. ACSW estimates that if all Alaska Native Region CETCs elected to use the exception, and uncapped support was limited to one line in a residential household, CETC support for the

⁵ *Id.*, ¶ 32.

⁶ *Id.*, ¶ 33.

⁷ See e.g. *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, Letter from David A. LaFuria, Counsel for Smith Bagley, Inc. to Marlene H. Dortch, Secretary, FCC (filed July 21, 2008).

⁸ See e.g. *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Letter from John Nakahata, Counsel to GCI, to Marlene H. Dortch, Secretary, FCC (filed July 30, 2008).

Alaska Native Regions would be approximately 20% less than the support received if all Alaska Native Region CETCs simply received the capped amount.⁹ This result is not consistent with the Commission's intent to promote telecommunications services in Alaska Native Region/tribal lands that, as Commissioner McDowell stated, are "some of the most under-served parts of America."¹⁰

CETCs would have significantly less support for deploying and operating their networks which are largely still in the build-out stages, particularly in the most remote areas. The result would hurt customers in hard-to-reach areas that are the least cost effective to service. Additionally, it would deprive the most rural households of the safety and conveniences afforded urban households, particularly with regard to wireless family plans. If the FCC applied the exception in this manner, it would undermine providers' ability to construct new cell sites to expand and strengthen service in these areas.

ACSW supports the Petition because of this potentially harmful ambiguity in the Alaska Native Region/tribal exception to the CETC cap.

Dated this 21th day of August, 2008.

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⁹ *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Letter from Elisabeth H. Ross, Counsel for Alaska Communications Systems to Marlene H. Dortch, Secretary, FCC, p. 2 (filed July 29, 2008).

¹⁰ *Interim Cap Order*, Statement of Commissioner Robert M. McDowell, p. 117.

CERTIFICATE OF SERVICE

I, Elisabeth H. Ross, hereby certify that a copy of the foregoing was served via electronic mail this 21st day of August, 2008 via email, upon the following:

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